

FILED

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

2016 MAY 25 PM 2: 23

REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of

Mr. Henry R. Stevenson, Jr.
Parkwood Land Company
Respondents.

§
§ Docket No. CWA 06-2016-2711
§
§ Proceeding Under § 309(a) of
§ the Clean Water Act

ADMINISTRATIVE ORDER ON CONSENT

I. AUTHORITY

1. The following findings of violations are made and Order issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 309(a) of the Clean Water Act ("the Act"), 33 U.S.C. § 1319(a). The Administrator has delegated this authority to the Regional Administrator of EPA Region 6 who has further delegated such authority to the Director of the Water Quality Protection Division, EPA Region 6.

II. FINDINGS OF VIOLATIONS

2. Mr. Henry R. Stevenson, Jr. ("Respondent"), is an individual, and therefore considered a "person" as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

3. Parkwood Land Co. ("Respondent") is a Texas corporation and therefore considered a "person" as defined by Section 502(5) of the Act, 33 U.S.C. § 1362(5).

4. At all times relevant to the violations alleged herein, Mr. Henry R. Stevenson, Jr. and Parkwood Land Co. (collectively "Respondents") owned real property, a tract of approximately 79 acres, located northeast of the Interstate Highway 10 and the Neches River intersection, west of Exit 856, near Rose City, Orange County, Texas, and referenced in Warranty Deed, instrument number 303215, Tract 3, as filed for record on September 20, 2006, in the official Public Records of Orange County, Texas.

5. On multiple dates in between August 9, 2007, and August 3, 2010, Respondents discharged, caused the discharge, and/or directed the discharge of “dredged material” or “fill material,” as those terms were defined by Section 502 of the Act, 33 U.S.C. § 1362, and 40 C. F. R. § 232.2, from point sources, including heavy equipment, in, on and into wetlands within the subject property adjacent to the permitted repair of a levee surrounding the property. The impacted wetlands are adjacent to, hydrologically connected to, and have a significant nexus to the Neches River, a traditionally navigable water of the United States.

6. During site visits on September 3, 2009, and July 22, 2010, Army Corps of Engineers representatives witnessed evidence of the unauthorized mechanized land clearing and filling of the wetlands.

7. Each piece of heavy equipment used during the excavation or construction activities which resulted in a discharge acted as a “point source” as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).

8. The dredged and fill material referred to in paragraph 5 was a “pollutant” as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6).

9. At all times relevant to the violations alleged herein, the wetlands referred to in paragraph 5, were “waters of the United States” as defined by 40 C.F.R. § 232.2.

10. At all times relevant to the violations alleged herein, Section 301(a) of the Act, 33 U.S.C. § 1311(a), provides that it is unlawful for any person to discharge a pollutant from a point source to waters of the United States, except with the authorization of and in compliance with a permit issued under the Act.

11. At all times relevant to the violations alleged herein, Section 404 of the Act, 33 U.S.C. § 1344, authorized the U. S. Army Corps of Engineers to issue permits for the

discharge of dredged or fill material to waters of the United States.

12. At no time relevant to the discharges alleged herein did Respondents have a permit issued by the U. S. Army Corps of Engineers which authorized the discharges alleged in paragraph 5.

13. On August 3, 2010, the Army Corps of Engineers issued a Cease and Desist Order to Respondents for the unauthorized discharge of fill material at the subject site.

14. Each alleged discharge was a violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

III. CONSENT AGREEMENT

15. The parties agree that settlement of this matter will save time and resources and is in the public interest and that issuance of this Order on Consent is the most appropriate means of resolving this matter with respect to Respondents' restoration of certain wetlands as described below. Respondents concur in the issuance of this Order on Consent and agrees to comply with the Order. Respondents neither admit nor deny the findings of violations set forth above.

IV. COMPLIANCE ORDER

16. Based on the foregoing findings of violations and pursuant to the authority of Section 309(a) of the Act, 33 U.S.C. § 1319(a), EPA ORDERS AND RESPONDENTS AGREE TO:

a. Seek a new authorization from the Corps of Engineers to perform levee maintenance, repair or realignment work. After authorization for this levee project is received from the Corps of Engineers and any other state, county, or local approvals are obtained, the current unauthorized fill material in wetlands at the site, that is suitable for levee use, can be used for that purpose. Note that fill material such as concrete containing exposed rebar is not suitable for levee restoration. If a new authorization from the Corps, and other required permits, etc., are no

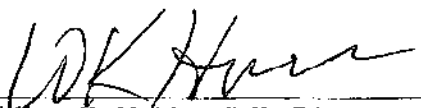
obtained within 90 days of this order, an extension of time is required or initiation of the restoration requirements of paragraph 16(b) shall commence.

b. If no permit or authorization can be obtained from the Corps (as well as any other required permits, etc.) for levee maintenance or repairs, remove the unauthorized fill material from the wetlands adjacent to the Neches River. A 10 foot safety buffer can remain adjacent to the levee so that no damage is done to levee integrity during the restoration. If access to remove this material by heavy equipment is deemed unsafe, the material may remain in place, but no additional fill material is authorized.

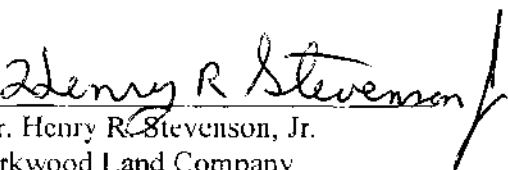
17. This Administrative Order on Consent resolves and replaces a previous Order to the same Respondents, EPA Docket No. CWA 06-2010-2708.

17. The effective date of this Order is the date it is received by Respondents after signature by both parties:

Date Issued: 4/25/16


William K. Honker, P.E., Director
Water Division

Date So agreed: 5-24-16


Mr. Henry R. Stevenson, Jr.
Parkwood Land Company

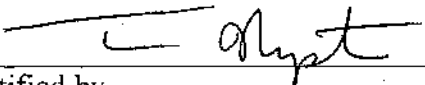
CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of May, 2016, the original of the foregoing Administrative Order on Consent was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6RC-D), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy was placed in the United States Mail, by certified mail, return receipt requested, addressed to the following:

Mr. Henry R. Stevenson, Jr.
Parkwood Land Company
2085 Galway Drive
Vidor, Texas 77662-2951

Copy hand-delivered:

Russell Murdock
Office of Regional Counsel (6RC-EW)
U.S. EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733



Certified by